MUNICIPAL CORPORATIONS — APPOINTMENT TO OFFICE — APPROVAL — RECONSIDERATION. — A statute provided that the members of the Board of Education were to be appointed by the mayor, with the approval of the city council. Pursuant to this provision the mayor appointed, and the city council approved, certain persons as members. Subsequently, the city council, reconsidering its vote of approval, disapproved the appointments. *Held*, that there had been no valid appointment to office as the ordinary parliamentary rules, allowing the city council to reconsider its action, applied. *People* v. *Davis*, 120 N. E. 326 (Ill.).

An appointment to office is completed when the last act required has been performed. *State* v. *Barbour*, 53 Conn. 76, 22 Atl. 686; *Draper* v. *State*, 175 Ala. 547, 57 So. 772; *Marbury* v. *Madison*, 1 Cranch (U. S.) 137. In the principal case the last act was the approval by the city council. *People* v. *Bissel*, 49 Cal. 407. An appointment to office by whomsoever made is intrinsically an executive act, and the city council in appointing acts in an executive capacity. *State* v. *Wagner*, 170 Ind. 144, 82 N. E. 466; *State* v. *Longdon*, 68 Conn. 519, 37 Atl. 383; *Haight* v. *Love*, 39 N. J. L. 14; *Achley's Case*, 4 Abb. Pr. (N. Y.) 35; *State* v. *Barbour*, 53 Conn. 76, 22 Atl. 686. And it is submitted that approval of an appointment, though by a legislative body, being but one of the steps required for a valid appointment, is also an executive act. Accordingly, by approving the appointment the city council has exercised and exhausted its power, and the appointee is seised of the office. *In re Fitzgerald*, 88 App. Div. (N. Y.) 434, 82 N. Y. S. 811. *Contra*, *Dust* v. *Oakman*, 126 Mich. 717, 86 N. W. 151. Thus, being vested with the office, reconsideration of the approval is ineffectual, and the appointee remains seised of the office until removed by a body having the power of removal. *In re Fitzgerald*, *supra*; *Achley's Case*, *supra*; *Haight* v. *Love*, *supra*; *Marbury* v. *Madison*, 1 Cranch (U. S.) 137, 162. See 2 DILLON, MUNICIPAL CORPORATIONS, 5 ed., § 466.

MUNICIPAL CORPORATIONS — COMPENSATION FOR SPECIAL SERVICES. — The plaintiff's fire-department was summoned to prevent the outbreak of fire in defendant's acid plant, the roof of which had caved in. The immediate danger passed, defendant requested that several men be supplied to watch the premises temporarily. Plaintiff sues for compensation for the services of the fire-department and of the special watchmen. *Held*, it may recover for the latter, but not the former. *Grays Urban District Council* v. *Grays Chemical Works, Limited*, [1918] 2 K. B. 461.

For a discussion of this case, see NOTES, page 282.

MUNICIPAL CORPORATIONS — MAINTENANCE OF RAILWAY CROSSINGS — SURRENDER OF POLICE POWER. — The complainant railway, being the owner of a right of way in the city, granted to the city the right to extend a street over the complainant's tracks, in consideration of which the city agreed that a crossing should be maintained without expense to the railway company. Subsequently, the city passed an ordinance requiring the railway company to bear the expense by operating safety gates at this crossing. To a bill by the complainant which seeks to enjoin the enforcement of this ordinance, the city demurs, alleging that the contract amounts to a surrender of the city's police power and so is not binding. *Held*, that the demurrer be overruled. *Florida East Coast R. Co.* v. *City of Miami*, 79 So. 682 (Fla.).

It is well settled that a city cannot by contract limit or give up the exercise of any police power delegated to it by the state. *Jacksonville* v. *Ledwith*, 26 Fla. 163, 7 So. 885; *State* v. *Laclede Gaslight Co.*, 102 Mo. 472, 14 S. W. 974; *City of Chicago* v. *Chicago Union Traction Co.*, 199 Ill. 259, 65 N. E. 243. See 16 HARV. L. REV. 436. A common illustration of the exercise of such power is found in enactments by city legislative bodies requiring that railway com-